



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: January 16, 2009

PETITION NO: 4228

HEARING DATE: January 8, 2009

PETITIONER: Claire Gonet, Trustee of Bearse Realty Trust

**PROPERTY: 450 Route 6A, Yarmouthport
Map & Parcel: 0124.31 Zoning District: R40
Deed Book & Page #: 20147/272**

MEMBERS PRESENT AND VOTING: David S. Reid, Chairman, Joseph Sarnosky, Diane Moudouris, and Richard Neitz.

Notice of the hearing has been given by sending notice thereof to the Petitioner and all those owners of property as required by law, and to the public by posting notice of the hearing and publishing in *The Register*, the hearing opened and held on the date stated above.

The petitioner seeks to modify the condition of a previously granted Special Permit (#4084), and simultaneously seeks to satisfy another condition thereof, by submitting the matter to the Board's review, relative to the parking arraignments previously authorized. The property is in the R40 zone, and is improved with a single-family home with detached barn. On December 28, 2006, the Board granted to the petitioner a Special Permit to operate a guest house/bed & breakfast business within the home, for up to three (3) available guest rooms and included in that Special Permit was relief from the parking requirements of the bylaw, subject to review of the parking, one year after the commencement of the use.

As to the parking, the petitioner represents that the business has not received any complaints nor has she become aware of any problems resulting from the parking relief granted to her. No complaints about the parking have been brought to the attention of the Board. While the neighbors continue to have concerns about the business, and question the sufficiency and compliance of the buffer plantings, they reported no problems arising from the parking itself.

As for the other conditions of the decision, it restricted the petitioner to a seasonal business (closed before January 2 and April 25 of each year), and precluded the business from having employees. The petitioner now seeks to remove the seasonal restriction, to allow year-round use, and seeks permission to have one part-time employee. The employee would work during mornings, on week days only, on average 3-4 hours per day. She/he would assist the owner in cleaning and servicing the guest rooms. She/he would not reside on the premises. The home would remain the residence of the owner, and she would continue to be present during the time when guests are in residence, as required by the Special Permit.

The Board finds that the proposed modifications will not substantially alter the operation in terms of its effect upon the neighborhood or town. The occupancy by guests during the winter months is likely to be modest in volume. The proposed employee involvement will be minimal in terms of traffic or other impacts. The employee will not reside at the premises nor take the place of the owner in terms of the supervision and operation of the business.

Therefore, a motion was made by Mr. Neitz, seconded by Mrs. Moudouris, to find that the Board is satisfied with the originally approved parking arrangements, and that no modification of the parking is required, at this time. The members voted unanimously in favor of the motion.

A second motion was made by Mrs. Moudouris, seconded by Mr. Sarnosky, to grant the petitioner's requested modifications of the conditions of decision #4084 by (1) removing the seasonal restriction set forth in condition #4, and (2) by allowing the business to hire one part-time employee, to assist in the housekeeping, as represented above, and therefore to modify condition #2 accordingly. In all other respects, the decision #4084 and its other conditions shall remain in force and effect. The members voted unanimously in favor of this motion, and the requested modifications are therefore granted.

No permit shall issue until 20 days from the filing of this decision with the Town Clerk. Appeals from this decision shall be made pursuant to MGL c40A section 17 and must be filed within 20 days after filing of this notice/decision with the Town Clerk. Unless otherwise provided herein, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw §103.2.5, MGL c40A §9)

David S. Reid, Clerk